aggregate indebtedness.[18] In Washington, this doctrine has been extended to permit deduction not only of the amount of cash on hand, but also the amount of uncollected current and delinquent taxes, under the theory that in legal contemplation the collection of these taxes is certain.[19] In the recent case of *State Capitol Commission* v. *State Board of Finance* (Wash. 1913) 132 Pac. 861, the court refused to sanction a further extension of this rule to the deduction of the appraised value of some state lands which were pledged to the satisfaction of the debt.

ABSOLUTE LIABILITY OF AUTOMOBILE OWNERS.—In the recent case of *Daugherty* v. *Thomas* (Mich. 1913) 140 N. W. 615, the court was called upon to determine the validity of a statute which provided that the owner of an automobile should be liable for all injuries occasioned by the negligent operation thereof except where it had been stolen; and it was held that since the statute made the owner liable for injuries caused by the negligent operation of the automobile by a mere stranger or wilful trespasser, without reference to the care exercised by the owner, it deprived the owner of his property without due process of law. If the end sought to be attained by the legislature had been merely to compensate those injured by the negligent operation of automobiles, it would seem that this result could have been reached by levying an assessment upon automobile owners, and providing for the indemnification of all the victims of automobile accidents out of the fund so raised. Such a statute would be almost identical with the one which was under review in *Noble State Bank* v. *Haskell*.[1] But, on the other hand, if the purpose of the legislature was to secure the careful operation of automobiles for the protection of the public on the highways, the imposition of such an assessment, it would seem, would have no tendency to produce this result, since whether an owner met with any accident or not, he would still have to contribute to the fund.

The real purpose of the statute in the principal case, however, seems to be to regulate the operation of automobiles to prevent injury to those using the public highways. The constitutionality of the statute depends therefore upon whether the danger to those using the highways because of the negligent operation of automobiles is so great that the imposition upon automobile owners of an absolute liability for all injuries caused by the negligent operation of their machines is a means reasonably suited to attain the end sought. That the danger to which those using the highways are exposed by the operation of automobiles would not warrant the imposition upon automobile own-

[18]Graham *v.* Spokane (1898) 19 Wash. 447; Eau Claire *v.* Eau Claire Water Supply Co. (1909) 137 Wis. 517, 536. Some courts refuse to allow this reduction for the sound reason that whether a party is in debt does not depend on his net worth. City Water Supply Co. *v.* City of Ottumwa (C. C. 1903) 120 Fed. 309, 313; Chicago *v.* McDonald, *supra*, p. 416. In New York, only the municipal funds on hand and set apart to meet some specific indebtedness may be deducted, Kronsbein *v.* City of Rochester (N. Y. 1902) 76 App. Div. 494.

[19]Graham *v.* Spokane, *supra*.

[1](1911) 219 U. S. 104; and see State *ex rel.* Davis-Smith Co. *v.* Clausen (1911) 65 Wash. 156; McGlone *v.* Womack *et al.* (Ky. 1908) 111 S. W. 688, 17 L. R. A. [N. S.] 855, and note; 10 Columbia Law Rev. 55.

ers of absolute liability to all those injured by such vehicles even when being used in the prosecution of their owner's business would seem to follow from the decision in *Ives* v. *South Buffalo Ry.*[2] In this case the New York Court of Appeals held that the imposition of an absolute liability on employers for injuries sustained by employees in certain occupations, classified by the statute as dangerous, could not be justified as a reasonable regulation under the police power. The court based its decision primarily upon the ground that the imposition of liability for injuries occasioned without fault is *per se* unconstitutional. But by the better view[3] the imposition of absolute liability is only unconstitutional where the particular mode of regulation would result in such hardship as to make its adoption unreasonable in the attainment of the desired end.[4] And, therefore, in order to protect those using the highways, it would seem that the legislature might properly impose upon owners of automobiles absolute liability for injuries occasioned when, at the time of the injury, the automobile is being used in the owner's business, or when he has failed to use reasonable care to keep his automobile out of the hands of others. However, the rule adopted by the statute in the principal case, in view of the object sought, seems unnecessarily harsh and certainly goes further then any statute thus far sustained.[5]

SPECIFIC AND GENERAL LEGACIES OF STOCK.—Under a specific legacy, if the identical thing bequeathed is not among the testator's assets at the time of his death, the legatee gets nothing from the estate; whereas, general legacies are not subject to this doctrine, known as ademption.[1]

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[2](1911) 201 N. Y. 271; see also Denver, etc. Ry. *v.* Outcalt (1892) 2 Colo. App. 395; Ziegler etc. *v.* South, etc. Ry. (1877) 58 Ala. 594. Had the legislature levied an assessment upon those engaged in dangerous employments for the purpose of creating a fund from which those injured could be indemnified, the court might well have upheld the statute. *Cf.* State *ex rel.* Davis-Smith Co. *v.* Clausen, *supra.*

[3]St. Louis Ry. *v.* Mathews (1897) 165 U. S. 1; Chicago, etc. Ry. *v.* Zernecke (1902) 183 U. S. 582. For a discussion of the cases dealing with an absolute liability see 10 Columbia Law Rev. 751. The imposition of an absolute liability is sometimes resorted to by legislatures to prohibit the exercise of a right altogether. Bertholf *v.* O'Reilly (1878) 74 N. Y. 509; Marvin *v.* Trout (1905) 199 U. S. 212. But, apparently, the object of the statute in the principal case was merely to regulate the exercise of the right. As to whether the legislature may exclude automobiles from the highways altogether, see People *v.* Rosenheimer (N. Y. 1913) 102 N. E. 530; 10 Columbia Law Rev. 477.

[4]See Ohio & Mississippi Ry. *v.* Lackey (1875) 78 Ill. 55; Camp *v.* Rogers (1877) 44 Conn. 291. The decisions which hold the imposition of absolute liability upon railroad companies for stock killed may be explained upon the ground that the insignificant value of the property sought to be protected does not warrant the adoption of this form of protection, with its resulting inconvenience.

[5]The statute under review in Camp *v.* Rogers, *supra,* apparently, attempted to impose a similar liability upon owners of vehicles, but because of the doubt the court felt in regard to the constitutionality of such a statute, it adopted a construction which avoided the difficulty.

[1]See Nusly *v.* Curtis (1906) 36 Colo. 464. Pecuniary legacies are sometimes loosely used as synonymous with general legacies, 1 Roper, Legacies (4th ed.) 191; *cf.* Humphrey *v.* Robinson (1889) 5 N. Y. Supp. 164,